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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/652,991	08/31/2000	Donald L. Yates	MTI-31046	4383

31870 7590 07/29/2003

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EXAMINER

TRAN, BINH X

ART UNIT	PAPER NUMBER
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1765

DATE MAILED: 07/29/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/652,991

Applicant(s)

YATES, DONALD L.

Examiner

Binh X Tran

Art Unit

1765

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 12, 13, 26, 28, 79, 111-126, 131-133, 146-148, 150-153, 155, 157 and 158.

Claim(s) withdrawn from consideration: _____.


8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Continuation of 2. NOTE: The new limitation "[one or more] organic acid" (from "one or more inorganic acid") raise new issue that would require further consideration and/or search.

Continuation of 5. does NOT place the application in condition for allowance because:

The applicants argue that "Bartlett teaches an etchant solution constructed by mixing ammonium fluoride and citric acid. Bartlett does not provides any information on the formation and concentration of HF and organic acid to form an etch solution". The examiner disagrees. The examiner is not particular how the solution is "originally" prepared. As the applicants aware, the HF component exists in the etchant solution having organic acid by the chemical reaction disclosed by Bartlett in column 2. Since the HF component and organic acid exist in the solution (same chemical component with applicant), this should read on the limitation of the claim regardless how it is prepared. The applicants further argue that Bartlett specifically refers the concentration of ammonium fluoride and citric acid- not a solution of HF and citric acid. The examiner disagrees. As discussed above, the examiner maintains that HF and citric acid component exist in the etching solution. The examiner acknowledges that Bartlett teaches the concentration of ammonium fluoride effect the etching rate. However, Bartlett teaches that the concentration of HF depends on fluoride ion sources (F-), which come from ammonium fluoride. Therefore, the examiner concludes that Bartlett implicitly teaches the concentration of HF. The applicants further argue that the experimentation based on Yamazaki would necessarily involve varying the ration of THREE ingredients comparing with applicant's invention of TWO ingredients. The examiner disagrees. According to the MPEP 2111.03, the transitional term "comprising", which is synonymous with "including," "containing," or "characterized by," is inclusive or open-ended and does not exclude additional, unrecited elements or method steps. The term "comprising" leaves "the claim open for the inclusion of unspecified ingredients even in major amounts" .

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